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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,446	07/21/2003	Gregory Tuc	116640	5233

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EXAMINER

FERGUSON, MICHAEL P

ART UNIT

PAPER NUMBER

3679

DATE MAILED: 04/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/622,446	<b>Applicant(s)</b> TUC ET AL.	
	<b>Examiner</b> Michael P. Ferguson	<b>Art Unit</b> 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 15, 2005 has been entered.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-7, 10-12 and 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Trafton (US 4,142,343).

As to claim 1, Trafton discloses an assembly, comprising:

a tubular element **28** having a cross-section with a not completely closed contour (the outer surface of tubular element **28** has contour openings defined by slots **29**) and comprising a slot **29** communicating with an inside (inside wall) of the tubular element;  
a panel **52**;

a pair of fixing elements **30,40** configured for being mounted on the tubular element, one of the fixing elements comprising a fixing tab **32,33,42** configured for engaging in the slot of the tubular element,

wherein the pair of fixing elements and the panel are configured to enable the panel to be held between the fixing elements, the fixing elements being disposed on either side of the panel (Figures 5-7).

As to claim 2, Trafton discloses an assembly wherein one of the fixing elements **30,40** has a face for bearing against one side of the panel **52** (Figures 5 and 7).

As to claim 3, Trafton discloses an assembly wherein a fixing tab **32,33,42** has a bearing surface suitable for bearing against an inside wall of the tubular element **28** (Figures 5 and 7).

As to claim 4, Trafton discloses an assembly wherein one of the fixing elements **30,40** has two fixing tabs **32,33,42,45** that are offset (fixing tabs **32,33** being offset circumferentially; fixing tabs **42,45** being offset radially) relative to a central axis of the fixing element (Figures 6 and 7).

As to claim 5, Trafton discloses an assembly wherein the tubular element **28** has a plurality of slots **29** enabling at least two pairs (not shown) of fixing elements **30,40** to be fixed side by side (Figures 5 and 7).

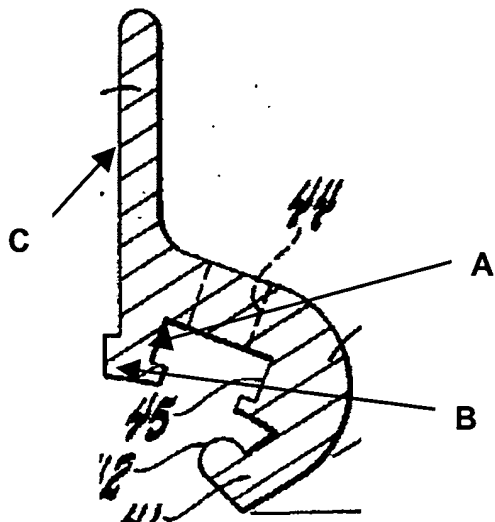
As to claim 6, Trafton discloses an assembly wherein a fixing tab **42** is configured in such a manner that when it is inserted in the corresponding slot **29** of the tubular element **28**, the fixing element **40** can pivot relative to the tubular element, prior to the panel **52** being put into place (Figure 7).

As to claim 7, Trafton discloses an assembly wherein each of the fixing elements **30,40** has an opening, and the panel **52** has a orifice, and wherein the openings and the orifice are configured so as to define a passage for the shank of a screw **52** co-operating with a nut (Figures 5 and 7).

As to claim 10, Trafton discloses an assembly wherein each of the fixing elements **30,40** is generally in the form of a half-shell (Figures 5 and 6).

As to claim 11, Trafton discloses a fixing element **30,40** for assembling a tubular element **28** and a panel **52** together, the fixing element comprising:

- a fixing tab **33,42** suitable for engaging in a slot **29** of the tubular element;
- an opening allowing a screw shank **52** to pass through for holding the panel; and
- a face **C** for pressing against one side of the panel and comprising stiffening ribs **32,34,A,B** (Figure 6 reprinted below with annotations; Figures 5-7).



As to claim 12, Trafton discloses a tubular element **28** for an assembly, the tubular element having four slots **29** disposed in a checkerboard configuration (slots **29**

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define parallel rows such as in a checkerboard) when observed in a direction perpendicular to the longitudinal axis of the tubular element (Figure 7).

As to claim 14, Trafton discloses an assembly wherein the face has stiffening ribs **32,34,A,B** (Figures 5 and 7).

As to claim 15, Trafton discloses an assembly, comprising:

a tubular element **28** having a slot **29**;

a panel **52**; and

a pair of fixing elements **30** not made integrally with the panel (panel **52** and fixing elements **30** are separate elements; Figure 7) and configured for being mounted on the tubular element, one of the fixing elements comprising two fixing tabs **32,33**, both for engaging in one slot of the tubular element,

wherein the pair of fixing elements and the panel are configured to enable the panel to be held between the fixing elements, the fixing elements being disposed entirely on either side of the panel (each fixing element **30** is entirely disposed on a single side of panel **52**; Figures 5 and 7).

As to claim 16, Trafton discloses an assembly, comprising:

a tubular element **28** being circularly cylindrical and comprising a slot **29**;

a panel **52**;

a pair of fixing elements **30** not made integrally with the panel (panel **52** and fixing elements **30** are separate elements; Figure 7) and configured for being mounted on the tubular element, one of the fixing elements comprising a fixing tab **32,33,42** for engaging in the slot of the tubular element,

wherein the pair of fixing elements and the panel are configured to enable the panel to be held between the fixing elements, the fixing elements being situated on either side of the panel without touching each other (each fixing element 30 is dimensioned so that fixing elements are situated on either side of the panel without touching each other; Figures 5-7).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8, 9 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trafton in view of Ateliers Reunis Caddie (FR 2 712 043).

As to claims 8, 9 and 13, Trafton fails to disclose an assembly wherein one of the fixing elements comprises a setback capable of receiving one of a nut and the head of a screw, wherein the setback has a depth that ensures that the one of the nut and the head of the screw is received completely in the setback; and comprising a plug configured to be capable of engaging in the setback so as to cover the one of the nut and the head of the screw.

Ateliers Reunis Caddie teaches an assembly wherein a fixing element 11 comprises a setback capable of receiving one of a nut 14 and the head of a screw 13, wherein the setback has a depth that ensures that the one of the nut and the head of the screw is received completely in the setback; and comprising a plug 27 configured to

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be capable of engaging in the setback so as to cover the nut; the setback and the plug improving the aesthetic appearance of the fixing element (abstract, Figure 4).

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify an assembly as disclosed by Trafton to have a fixing element having a setback, and a plug as taught by Ateliers Reunis Caddie in order to improve the aesthetic appearance of the fixing element.

### ***Response to Arguments***

6. Applicant's arguments filed April 15, 2005 have been fully considered but they are not persuasive.

As to claim 1, Attorney argues that:

Trafton does not disclose an assembly comprising a tubular element having a \ *cross-section with a not completely closed contour.*

Examiner disagrees. As to claim 1, Trafton discloses an assembly comprising a tubular element **28** having a cross-section with a not completely closed contour (the outer surface of tubular element **28** has contour openings defined by slots **29**; Figure 7).

As to claims 15 and 16, Attorney argues that:

Trafton does not disclose an assembly comprising *a pair of fixing elements not made integrally with the panel; and wherein the fixing elements are situated entirely on either side of the panel without touching each other.*

Examiner disagrees. As to claims 15 and 16, Trafton discloses an assembly comprising a pair of fixing elements **30,40** not made integrally with the panel **52** (panel **52** and fixing elements **30** are separate elements; Figure 7); and wherein the fixing



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elements are situated entirely on either side of the panel without touching each other (each fixing element **30** is dimensioned so that fixing elements are situated on either side of the panel without touching each other; Figure 5).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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